

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

MAXELL HOLDINGS, LTD.,

Plaintiff,

v.

AMPEREX TECHNOLOGY LIMITED,

Defendant.

CIVIL ACTION NO. 6:21-cv-347-ADA

JURY TRIAL DEMANDED

SCHEDULING ORDER

Default Deadline	Deadline	Event
7 weeks after CMC ¹	September 10, 2021	Defendant serves preliminary invalidity contentions ² in the form of (1) a chart setting forth where in the prior art references each element of the asserted claim(s) are found, (2) an identification of any limitations the Defendant contends are indefinite or lack written description under section 112, and (3) an identification of any claims the Defendant contends are directed to ineligible subject matter under section 101. Defendant shall also produce (1) all prior art referenced in the invalidity contentions, and (2) technical documents, including software where applicable, sufficient to show the operation of the accused product(s).
9 weeks after CMC	September 24, 2021	Parties exchange claim terms for construction.

¹ Pursuant to the Court's AMENDED STANDING ORDER REGARDING NOTICE OF READINESS FOR PATENT CASES (Dkt. No. 9), the CMC is deemed to have occurred on July 23, 2021.

² The parties may amend preliminary infringement contentions and preliminary invalidity contentions without leave of court so long as counsel certifies that it undertook reasonable efforts to prepare its preliminary contentions and the amendment is based on material identified after those preliminary contentions were served and should do so seasonably upon identifying any such material. Any amendment to add claims requires leave of court so that the Court can address any scheduling issues.

Default Deadline	Deadline	Event
3 months after filing of Defendant's Motion to Dismiss	October 1, 2021	Close of Jurisdictional Discovery
11 weeks after CMC	October 8, 2021	Parties exchange proposed claim constructions.
12 weeks after CMC	October 15, 2021	Parties disclose extrinsic evidence. The parties shall disclose any extrinsic evidence, including the identity of any expert witness they may rely upon with respect to claim construction or indefiniteness. With respect to any expert identified, the parties shall identify the scope of the topics for the witness's expected testimony. ³ With respect to items of extrinsic evidence, the parties shall identify each such item by production number or produce a copy of any such item if not previously produced.
2 weeks after Close of Jurisdictional Discovery	October 15, 2021	Plaintiff files response to Defendant's Motion to Dismiss
13 weeks after CMC	October 22, 2021	Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.
14 weeks after CMC	October 29, 2021	Defendant files Opening claim construction brief, including any arguments that any claim terms are indefinite.
2 weeks after Plaintiff's response to Defendant's Motion to Dismiss	October 29, 2021	Defendant files reply in support of its Motion to Dismiss
17 weeks after CMC	November 19, 2021	Plaintiff files Responsive claim construction brief.
19 weeks after CMC	December 10, 2021	Defendant files Reply claim construction brief.
21 weeks after CMC	January 3, 2022	Plaintiff files a Sur-Reply claim construction brief.
3 business days after submission of sur-reply	January 6, 2022	Parties submit Joint Claim Construction Statement. <i>See General Issues Note #9 regarding providing copies of the briefing to the Court and the technical adviser (if appointed).</i>

³ Any party may utilize a rebuttal expert in response to a brief where expert testimony is relied upon by the other party.


Default Deadline	Deadline	Event
22 weeks after CMC (but at least 10 days before <i>Markman</i> hearing)	January 7, 2022	Parties submit optional technical tutorials to the Court and technical adviser (if appointed). ⁴
23 weeks after CMC (or as soon as practicable)	January 18, 2022	<i>Markman</i> Hearing at 9:00 a.m. This date is a placeholder and the Court may adjust this date as the <i>Markman</i> hearing approaches.
1 business day after <i>Markman</i> hearing	January 19, 2022	Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a).
6 weeks after <i>Markman</i> hearing	March 1, 2022	Deadline to add parties.
8 weeks after <i>Markman</i> hearing	March 15, 2022	Deadline to serve Final Infringement and Invalidity Contentions. After this date, leave of Court is required for any amendment to Infringement or Invalidity contentions. This deadline does not relieve the Parties of their obligation to seasonably amend if new information is identified after initial contentions.
16 weeks after <i>Markman</i> hearing	May 10, 2022	Deadline to amend pleadings. A motion is not required unless the amendment adds patents or patent claims. (Note: This includes amendments in response to a 12(c) motion.)
26 weeks after <i>Markman</i> hearing	July 19, 2022	Deadline for the first of two meet and confers to discuss significantly narrowing the number of claims asserted and prior art references at issue. Unless the parties agree to the narrowing, they are ordered to contact the Court's Law Clerk to arrange a teleconference with the Court to resolve the disputed issues.
30 weeks after <i>Markman</i> hearing	August 16, 2022	Close of Fact Discovery.
31 weeks after <i>Markman</i> hearing	August 23, 2022	Opening Expert Reports.
35 weeks after <i>Markman</i> hearing	September 20, 2022	Rebuttal Expert Reports.
38 weeks after <i>Markman</i> hearing	October 11, 2022	Close of Expert Discovery.

⁴ The parties should contact the law clerk to request a Box link so that the party can directly upload the file to the Court's Box account.

Default Deadline	Deadline	Event
39 weeks after <i>Markman</i> hearing	October 18, 2022	Deadline for the second of two meet and confers to discuss narrowing the number of claims asserted and prior art references at issue to triable limits. To the extent it helps the parties determine these limits, the parties are encouraged to contact the Court's Law Clerk for an estimate of the amount of trial time anticipated per side. The parties shall file a Joint Report within 5 business days regarding the results of the meet and confer.
40 weeks after <i>Markman</i> hearing	October 25, 2022	Dispositive motion deadline and <i>Daubert</i> motion deadline. See General Issues Note #9 regarding providing copies of the briefing to the Court and the technical adviser (if appointed).
42 weeks after <i>Markman</i> hearing	November 8, 2022	Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, discovery and deposition designations).
44 weeks after <i>Markman</i> hearing	November 29, 2022	Serve objections to pretrial disclosures/rebuttal disclosures.
45 weeks after <i>Markman</i> hearing	December 13, 2022	Serve objections to rebuttal disclosures and File Motions <i>in limine</i> .
46 weeks after <i>Markman</i> hearing	December 20, 2022	File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, discovery and deposition designations); file oppositions to motions <i>in limine</i> .
47 weeks after <i>Markman</i> hearing	January 3, 2023	File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Kristie Davis at kmdaviscsr@yahoo.com. Deadline to meet and confer regarding remaining objections and disputes on motions <i>in limine</i> .
3 business days before Final Pretrial Conference.	January 12, 2023	File joint notice identifying remaining objections to pretrial disclosures and disputes on motions <i>in limine</i> .

Default Deadline	Deadline	Event
49 weeks after <i>Markman</i> hearing (or as soon as practicable)	January 17, 2023	Final Pretrial Conference.
52 weeks after <i>Markman</i> hearing (or as soon as practicable)	February 7, 2023	Jury Selection/Trial.

Signed this 13th day of August, 2021


 Judge Alan D Albright
 United States District Judge